

Second Joint Status Report under the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy

SUMMARY

Deregulation of the transportation, telecommunications, energy, financial, aviation and other sectors in the United States since the mid-1970s' has fundamentally repositioned our economy to be the most competitive economy in the world today. Deregulation means changing the way government operates, including the ways it regulates and provides incentives to investment. Support for pro-competitive practices is essential to secure new investment, new technology development, entrepreneurship and the creation of new economic opportunities that Japan needs to turn around its economy and restore growth. As Prime Minister Obuchi recently observed of the challenge before Japan today, "We realize that unless we adopt a more flexible economy driven by the market, Japan is doomed to economic and technological decline."

The U.S.- Japan Enhanced Initiative launched in June 1997 in Denver created a bilateral process to address regulatory and anti-competitive barriers for both foreign and domestic firms in Japan. In May 1998 in Birmingham, England the United States and Japan announced a First Joint Status Report under the Enhanced Initiative detailing a package of measures to substantially deregulate Japan's telecommunications, housing, medical devices, pharmaceuticals, distribution, and financial services sectors. Since Birmingham, teams of American government experts overseen by Deputy United States Trade Representative Richard Fisher have met throughout the year with Japanese experts from a number of Japanese Ministries coordinated by Deputy Foreign Affairs Minister Koichi Haraguchi to further the process and push the envelope of Japanese deregulation and restructuring.

New deregulation measures unveiled today will substantially expand last year's program in these sectors, advance deregulation of Japan's energy sector, and address cross-cutting competition policy and transparency issues. The Initiative is an important component of the Administration's strategy to further open the Japanese market and is designed to complement ongoing bilateral enforcement efforts with respect to such issues as steel, insurance, flat glass, autos & auto parts, government procurement; and our multilateral agenda in APEC and the WTO to reduce Japanese trade barriers. Recognizing the importance of continued deregulation in Japan, both governments also agreed to continue their work under the Enhanced Initiative for a third year.

New deregulation commitments announced today include the following key measures, details of which are available in a comprehensive fact sheet from USTR.

Telecommunications

Japan has committed to specific new measures to more effectively introduce competition into its \$130 billion telecommunications sector by:

- Ensuring that interconnection rates -- the rates charged competitors of NTT to access the majority of Japanese customers -- are set below retail rates;
- Defining measures that will assure NTT DoCoMo's (cellular service provider) interconnection rates are more fairly priced by being purely based on costs;
- Providing a new interconnection "clearinghouse" for new entrants in the Japanese market which will dramatically speed market entry;
- Permitting and developing detailed terms and conditions that will allow carriers to enter into flexible network arrangements, thus allowing businesses to build out their networks more rapidly and efficiently;
- Improving methods to ensure that new entrants have fair and non-discriminatory access through interconnection arrangements, including access to international cable landing stations, controlled by KDD (which holds 60% market share of the international telephony market);
- Opening-up Cable TV to one hundred percent foreign investment (and clearly restricting NTT from using its control of fiber optic cable reaching residential customers to distort competition in the cable TV/telephony market); and
- Proposing new regulations by mid-year to allow firms to use their internal electrical wiring systems for communications purposes.

Housing

Currently, U.S. manufacturers supply only \$1.5 billion of Japan's languishing \$42 billion residential building materials industry. New commitments by Japan under the Initiative should create new opportunities by:

- Accelerating the introduction of performance-based standards for three-story, multi-family wood housing in urban residential areas from Japan Fiscal Year 2000 to May 1, 1999;
- Adopting open public comment procedures in the formulation and implementation of revisions to Japan's Building Standards Law;
- Working cooperatively to build acceptance of U.S.-style building materials and methods in Japan through a series of jointly sponsored seminars; and
- Ensuring that imported building materials are not discriminated against from use in any of its government housing programs

Medical Devices and Pharmaceuticals

These are important high-growth areas of Japan's economy where U.S. companies have captured 12% of Japan's \$64 billion pharmaceutical market and 30% of Japan's \$20 billion medical device market. Incredibly, however, 80% of the latest, most effective drugs available in other developed markets are not available in Japan today. Japanese government policy has discouraged medical advancement by stifling competition. Japan will inaugurate new competition in these areas by:

- Agreeing to recognize the role of the market, as well as the value of innovation, as it continues to study pharmaceutical pricing reform;

- Assuring that the U.S. pharmaceutical industry will have meaningful input into Japan's reform process;
- Developing and implementing new procedures to expedite the establishment of new "by-function" categories for reimbursement for medical devices under Japan's health insurance system;
- Speeding approval processes for pharmaceuticals and expanding these procedures to cover medical devices;
- Expanding the acceptance of foreign clinical in the medical device and pharmaceutical approval processes;
- Improving the transparency of its medical device reimbursement system by issuing requirements in writing and allowing firms to engage in pre-filing consultations with Japanese regulators; and
- Promoting the liberalization of nutritional supplements by treating such products as foods for regulatory purposes. This is a six billion dollar market in Japan in which U.S. companies have less than seven percent market share.

Financial Services

Japan's "Big Bang" reforms of its financial sector (which built upon the undertakings in the U.S.-Japan 1995 agreement) should substantially improve the ability of foreign financial services providers to reach customers in most segments of the Japanese financial system. New reform commitments announced today will expand opportunities by:

- Liberalizing use of securities derivatives;
- Easing the registration process for new securities companies;
- Promoting a more vigorous asset-backed securities market;
- Sharply expanding the scope of financial activities and products allowed to banks and securities firms, including mutual fund products;
- Introducing stock options;
- Fully liberalizing brokerage commissions;
- Substantially widening the scope of activities allowed to banks and bank subsidiaries;
- Allowing investment advisory companies to grant discretionary authority to other fund managers;
- Simplifying the transfer of assets between fund managers; and
- Strengthening accounting and disclosure rules, including a switch to consolidated accounting.

Energy

The cost of energy to Japanese businesses and consumers is among the highest in the industrialized world, and reflects an over-regulated industry. As a result of this year's discussions, Japan will be:

- Amending its Electric Utility Industry Law to shift from a permit and approval system to a notification system for construction or upgrading of all power generating facilities;
- Simplifying regulations and launching work to harmonize various Japanese standards with international standards for energy-related equipment, such as turbines, compressors, and standby generator sets;
- Working toward the harmonization of its standards regarding self-serve gas pumps with international standards and to make other related regulatory changes to ease the costly and time-consuming process required to install self-service gasoline pumps.

Distribution

With respect to cross-cutting regulatory issues which impede foreign and domestic competition in Japan, a number of critical new measures have been agreed upon. Japan's closed and inefficient distribution system has provided pernicious market access barriers to foreign competition in many sectors including glass, paper, and film. Japan's new commitments which address distribution issues and bottle-necks entail:

- Establishing nationally applicable guidelines regarding environmental factors, such as traffic and noise, for use by large-scale retail store operators;
- Actively soliciting public comments and opening the public comment process in order to ensure the transparency and non-discriminatory implementation of the new Law (*Daiten-Ricchi Ho*); monitoring local governments' implementation of the Law so that its purpose of liberalizing Japan's retail sector is not impeded; and ensuring the transparent and fair application of the City Planning Law by local governments;
- Expediting customs clearance processing, and completing a study on linking the Customs Administrations' and Transportation Ministry's computer systems, while supporting multilateral efforts to promote the use of harmonized, simplified and streamlined cargo processing systems; and
- Introducing a maritime container cargo system to expedite the clearance of goods arriving by ship.

Competition Policy

The United States believes that competition ought to be the central organizing principle of the Japanese economy and active deregulation is critical to making this principle a reality. Instead of competition-restricting regulations, market forces should govern business activities in Japan, in keeping with the Obuchi Government's goal of achieving "a more flexible economy driven by the market." Furthermore, vigorous Antimonopoly Act enforcement is critical to preserve and expand the benefits of deregulation. Robust competition policy and deregulation work hand-in-hand in fostering free and open markets. In the area of competition policy, Japan will be:

- Launching proactive steps under competition policy advocacy by creating a model Antimonopoly Act Compliance Program for private firms;
- Using various means, including public hearings, to actively expand public involvement and address deregulation and competition policy issues;
- Reviewing business entry regulations and “supply/demand adjustment” regulations and, where appropriate, proposing the removal of such regulations;
- Reviewing competition-restricting regulations on the central and local government level and, in appropriate cases, propose abolishing or revising such regulations;
- Issuing a JFTC study group report on private remedies by December 1999 (at the latest), which would allow sufficient time to prepare any new legislation by next March;
- Actively filing criminal accusations with the Prosecutor’s Office in anticartel cases; and
- Amending its Bidding Instructions to make clear that firms bidding on public works contracts cannot consult with competitors about prices.

Transparency

Foreign firms have long been disadvantaged by the lack of transparency in the Japanese regulatory system. As outsiders to the system, foreign firms lack access to the timely, detailed information regarding regulatory matters commonly enjoyed by their Japanese competitors. As a consequence, the United States has long pressed the Japanese Government to make its administrative procedures and practices more open and transparent. With respect to transparency and other government practices, Japan will be:

- Creating formal Public Comment Procedures for Formulating, Amending or Repealing Regulations (a cornerstone of the U.S. regulatory system for more than 50 years);
- Advancing legislation to establish an Information Disclosure Act;
- Reduced the standard processing period for the issuance of licenses, permits and approvals; and
- Providing for the use of, the Overall Greatest Value Methodology (OGVM) by local governments as a method of determining the successful bidder in local government procurement.

Conclusion

The measures announced today should have a significant impact in opening the Japanese telecommunications, housing, medical devices/pharmaceuticals, financial, energy, and retail sectors to competition. The proof of the pudding depends on Japanese implementation of these agreed upon changes and procedures. As the Initiative continues into its third year, the United States and Japanese Governments’ will closely monitor implementation.